

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL PARKS,

Defendant-Appellant.

UNPUBLISHED

May 10, 2005

No. 251808

Ingham Circuit Court

LC No. 03-000405-FC

Before: Bandstra, P.J., and Fitzgerald and Meter, JJ.

MEMORANDUM.

Defendant appeals as of right from his prison sentences of twenty-five to forty years for armed robbery, MCL 750.529, twenty to forty years for solicitation of armed robbery, MCL 750.157b(3), and twenty to forty years for first-degree home invasion, MCL 750.110a(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that when scoring the sentencing guidelines, the trial court relied on facts not found by the jury in contravention of *Blakely v Washington*, 542 US __; 124 S Ct 2531; 159 L Ed 2d 403 (2004). We disagree and affirm. In *People v Claypool*, 470 Mich 715, 730 n 14; 684 NW2d 278 (2004), our Supreme Court held that *Blakely* does not apply to Michigan's system of indeterminate sentencing because under our system the maximum term is not set by the sentencing court, but rather is determined by statute. MCL 769.8. *Claypool*, *supra*, is binding on this Court. *People v Drohan*, 264 Mich App 77, 89 n 4; 689 NW2d 750 (2004).

Affirmed.

/s/ Richard A. Bandstra

/s/ E. Thomas Fitzgerald

/s/ Patrick M. Meter